LOS ANGELES POLICE COMMISSION

REVIEW OF THE DEPARTMENT'S CONFIDENTIAL INFORMANT CONTROL PACKAGES AUDIT, Fiscal Year 2008-2009 OPEN SESSION

Conducted by the

OFFICE OF THE INSPECTOR GENERAL

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REVIEW OF THE DEPARTMENT'S CONFIDENTIAL INFORMANT CONTROL PACKAGE AUDIT

PURPOSE

The Office of the Inspector General (OIG) reviewed the Los Angeles Police Department's (Department) Confidential Informant Control Package Audit (Audit). This Audit was completed by Internal Audits and Inspections Division (IAID) in the Fourth Quarter, Fiscal Year 2008/2009 and received by the OIG on July 1, 2009. At the time the OIG began its review on July 1, 2009, the Department was still under the Consent-Decree (CD). The CD was subsequently terminated on July 20, 2009.

BACKGROUND

This was the seventh Confidential Informant Control Package Audit conducted by IAID. The Audit assessed the Department's compliance with CD Paragraphs 108, 109, 128(5), and 131 (a, c, d, and e) and for compliance with other policies outside of the scope of the aforementioned CD Paragraphs. As a result of its review, IAID determined the Department met the 95% compliant standard for 17 of 18 objectives.

According to IAID, this Audit was conducted in accordance with generally accepted government auditing standards. Those standards require that the Audit is planned and performed to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions, based on the Audit's objectives. IAID has determined that the evidence obtained provides a reasonable basis for the findings and conclusions based on the Audit's objectives. The work was limited to those areas specified in the *Methodology* and *Detailed Findings* sections of the Audit.

The Department's Informants Manual defines a confidential informant (CI) as a person who is given specific direction by an officer, whether on one or several occasions, in an attempt to secure information related to criminal activity. There are two types of CIs. The first is a citizen informant who is motivated primarily to make the community a better place to live. The second is a criminal informant who has a criminal background and is motivated by personal reasons such as revenge, monetary compensation, or a Letter of Accomplishment.[1] All CIs must be packaged and approved by management before an officer can direct them to obtain information and/or perform certain tasks.[2] The Department also uses non-confidential informants (NCI). A NCI can be a citizen or a criminal informant; however, NCIs differ from CIs in that the NCI has agreed to have his or her activities audio recorded, submit a written statement for each controlled purchase of narcotics, and testify in court. The individuals selected as NCIs are typically unknown to the neighborhood where they are used and are carefully interviewed by the officer-in-charge of the NCI program to determine their suitability for undercover operations.

The use of a CI or NCI is restricted to non-uniformed personnel assigned to various Department investigative entities, such as Area detectives and specialized detective divisions. The CI or NCI package is the primary source for documenting the informant's identity, suitability, contact activity,

[1] A Letter of Accomplishment is used to document a CIs contribution to a criminal investigation and is offered to gain a favorable result during a pending criminal case.

[2] *Packaged* means that the required forms enabling the use of a CI were properly completed and approved by the Commanding Officer of Gang and Narcotics Division.

criminal history, and productivity. For every prospective informant, various databases are queried to determine whether they satisfy the criteria (e.g., eligibility) established by the Department. Once the prospective informant is determined to be eligible, the package is reviewed and approved by various levels of Department management up to and including the Commanding Officer of Gang and Narcotics Division (GND).

During its Audit, IAID evaluated a sample of active CI control packages. IAID noted that although GND met the 95% CD compliance standard for 17 of the 18 objectives governing the use of CIs, it did not meet the same standard for Objective No. 3 (Underlying Actions) which had a compliance rate of 89%. IAID identified 10 findings associated with Objective No. 3. Five of the ten findings were attributable to the GND Commanding Officer not having been advised of required information (e.g., local, state and federal criminal checks), while the remaining findings were attributable to improperly deactivating a confidential informant package, a lack of documentation for an informant's pre and post pat down searches, a lack of properly certifying payment to an informant, and an officer issuing payment to a confidential informant and also acting as the only witness to the transaction with the informant.

The table below provides a brief description of the Audit's objectives, the related CD paragraphs and the reported compliance rates.

	CD	NUMBER/PERCENTAGE OF ACTIVE PACKAGES IN COMPLIANCE
1. Completeness	128(1)	100%
2. Authenticity		
2(a) Canned Language	128(2a)	100%
2(b) Inconsistent Information	128(2b)	99%
2(c) Articulation of Legal Basis	128(2c)	100%
2(d) Other indicia that the information in the document is inauthentic or incorrect.	128(2d)	100%
3. Underlying Actions	128(3)	89%
4. Supervisory Oversight	128(4)	97%
5. Confidential Informant Tracking System Database	109	100%
6. Handling Informants		
6(a) Use of Informants by Non-Uniformed Personnel	108a	100%
6(b) Completion of Informant Control Package	108b	100%
6(c) Chain of Command Manager Approval	108c	99%
6(d) Assigned Confidential Informant Number	108d	100%
6(e) Secure Package Storage	108e	100%
6(f) Prior Approval for End of Watch Package Retention	108f	100%
6(g) Updating Reactivated Informants	108g	100%
6(h) Documenting Contacts with Informants	108h	95%
6(i) Supervisor Meeting Informant Prior to Package Submission	108i	100%
6(j) Documenting Information and the Results of the Investigation	108j	100%

METHODOLOGY

To assess the completeness, quality and findings of IAID's Audit, the OIG reviewed a statistically significant number of informant packages in IAID's sample. The sample size was calculated based on a 95% confidence level, an expected error rate of 6% and a plus-precision of 7%. The informant packages included all NCI packages based on the higher risk level associated with the NCI program.

OBJECTIVES

The three main objectives of the OIG's review were to assess the Audit for completeness, findings and quality, with the primary sub-objectives described below:

Completeness

- Determined if the Audit tested and reported compliance rates for CD Paragraphs 108 (a through j), 109, 128, and 131 (a, c and e).

- Determined if the audit samples were selected from a complete Department-wide population of all active informants.

Quality

- Determined if appropriate sampling methodologies and testing questions were used.

- Determined if there was evidence of adequate supervision.

- Determined if the Audit Report completely and accurately reported the audit's purpose, methodology, objectives, results, detailed findings, and status of prior recommendations.

Findings

- Determined if findings were correctly and completely identified and reported for instances in which CD paragraph requirements were not complied with.

- Determined if reported findings represented instances in which CD paragraph requirements were not complied with.

RESULTS

Completeness
The Audit tested and reported compliance rates for CD Paragraphs 108 (a through j), 109, 128, and 131 (a, c and e). The audit samples were selected from a complete Department-wide population of all active informants. As such, the Audit met the OIG's completeness standard.

Quality
Appropriate testing questions were used, and there was evidence of adequate supervision. The Audit Report completely and accurately reported the audit's purpose, methodology, objectives, results, detailed findings, and status of prior recommendations. As such, the Audit met the OIG's quality standard.

Findings
Findings were correctly and completely identified and reported for CD mandated paragraph requirements. As such, the Audit met the OIG's finding*s* standard.

Additionally, IAID identified and reported four findings relative to NCI packages. After review, the OIG determined that GND followed applicable policy and protocol relative to each finding issue. The OIG therefore, does not concur with IAID's finding assessments. Finding details are as follows:

Finding 1 - Interstate Criminal Record Not Run

IAID's Audit relative to an NCI package reported, "*The FBI run was incomplete: the FBI inquiry indicated an interstate criminal record was not run. The GND CO was not privy to required information prior to package approval.*" As a matter of policy, GND checks FBI records for an NCI's prior arrests as the FBI maintains centralized arrest records for the United States. In this case, the FBI report indicated a prior arrest in another state. GND personnel did not inquire as to the nature of this arrest or present this information to the Commanding Officer of GND.

The Informant Package Checklist in the Department's Informant Manual requires database searches of/for:

- Criminal Consolidated History Reporting System (CCHRS).
- Criminal Investigation and Identification (CII) for key name and convictions.
- Federal Bureau of Investigation (FBI) for key name and convictions.
- Automated Wants and Warrants System in the Network Communication System (NECS) (PF-17) with informant's CII No. for warrants.
- Law Enforcement Agencies Data System (LEADS) for parole status on informant's key name and include minimum/maximum age, gender and ethnicity.
- Concerned State Department of Motor Vehicles (DMV) for the informant's drivers license status and attach printout.
- Vehicle(s) registered to the informant, if applicable.

Although IAID was concerned that an interstate criminal records inquiry was not completed, the above noted policy does not require that such an inquiry be made. The OIG determined that GND acted in accordance with Department policy in completing and presenting the informant package for approval. In the past, it had not been GND's practice to conduct an interstate criminal records inquiry. However, after consulting with IAID, GND recognized the benefit of conducting such inquiries and incorporated this practice into its packaging and semi-annual review of informants on or about June 18, 2008.

Finding 2 – Visual Search of Informant Made by Officer of Opposite Gender

IAID's Audit relative to an NCI package reported, "*A contact form indicated that an officer of the opposite gender conducted pre and post searches of the informant. This is permitted when the field operation is not pre-planned. The information in the package supported that this controlled buy was pre-planned.*"

The Department's Informant Manual (page 13) provides:

> An effort should be made to ensure that an officer of the informant's gender is present and available to conduct any necessary search during pre-planned field operations. In the event that an officer of the same gender is not available, a visual search should be conducted. A visual search of the informant shall include:
>
> - Emptying the informants pockets;
> - Searching any bag or purse belonging to the informant, if applicable; and
> - Removing and searching the informant's shoes, if applicable.
>
> **Note:** If an officer of the informant's gender is unavailable, it should be noted in the Informant Contact Form.

IAID indicated in its Audit that the operation was pre-planned, but nevertheless found the search of the informant to be inconsistent with policy. The OIG's review of the Informant Contact Form (ICF) confirmed that the operation was indeed pre-planned and that the ICF contained proper documentation and rationale for the visual pre and post search of the informant. Further, the ICF documented the execution of a visual search of the informant, noting that an officer of the same sex as the informant was not available to conduct the search. Under the described circumstances, Department policy provides the investigating officer with the discretion to execute the operation and thus, the OIG determined that the investigating officer acted in accordance with Department policy.

Findings 3 and 4 – Witnessing Pre-approved Supplemental Police Account Payments to Informants[3]

IAID's Audit reported on two NCI packages stating, "*Two payment chits required pre-approval by a Detective III or Lieutenant; however, it was pre-approved by a Detective II.*"

The OIG's review of the two payment chits indicated that they were Supplemental Police Account (SPA) payments to NCIs for controlled drug purchases.

> Narcotics Division's Order No. 2 provides, in relevant part:
>
> The SPA is an annual allocation of $1.5 million to the Department by the City Council and the Mayor. The allocation is made in accordance with Administrative Code Section 5.11.5. Actual disbursement of these funds can only occur after expenditure plans are submitted to and approved by the City Council. With Department management input, Fiscal Operations

[3] The two findings identified in the Audit are similar and were merged for purposes of addressing them in this report.

> Division (FOD) prepares the annual expenditure plans based upon operational needs associated with contraband, informants, equipment needs, miscellaneous operational expenses, and travel and training expenses. All expenditures of SPA funds in the category of Narcotics/Informants require pre-approval.
>
> A Narcotics Expenditure – Secret Service Funds chit can be used to document the multiple informant-related expenditures (*Secret Service* should be lined out and *Supplemental Police Account* shall be handwritten near the lined out title). A witnessing supervisor (Detective II or above), in addition to the disbursing officer, shall be present during the payment. If the payment exceeds $500, a Detective III or above shall witness the payment. In this section, the witnessing supervisor shall sign his or her payroll signature and write his or her serial number to acknowledge the witnessing of the payment.

As provided by the Asset Forfeiture Investigative Details' Financial Coordinator, a SPA form is completed once each month and approved by the Commanding Officer of GND to document the disbursement of an allotment that will be used for planned investigations involving the purchase of narcotics and/or payments to informants.

In both of these cases, the payment chits identified by IAID were pre-approved by the Commanding Officer of GND, were in amounts less than $500 and were documented on Secret Service Fund chits, with the words *Secret Service* lined out and replaced with the words *Supplemental Police Account* or *SPA* handwritten near the lined out title. Moreover, each chit was witnessed by a Detective II as required by policy. As such, the OIG determined that the payments were dispersed in accordance with Department policy.

MANAGEMENT'S RESPONSE

IAID is in general agreement with the OIG's findings.

CONCLUSION

The OIG's review of informant packages revealed that IAID appropriately identified and reported all significant CD findings. This is commendable considering that each NCUOF package was audited for 18 objectives and covered all mandated CD paragraphs. However, the OIG did not concur with the four reported findings for NCIs identified by IAID. Overall, the OIG concluded that the Audit was complete, of good quality and the CD-related findings were appropriately reported.